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Sunset Reviews  
Public Document  
AD/CVD 5: FWA

MEMORANDUM TO: Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Full Sunset Reviews of the  
Antidumping Duty Orders on Ball Bearings and Parts Thereof from  
Japan and Singapore; Preliminary Results

### Summary

We have analyzed the substantive responses and rebuttals of interested parties in the full sunset reviews of the antidumping duty orders on ball bearings and parts thereof from Japan and Singapore. We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in these full sunset reviews for which we received comments by parties:

1. Likelihood of continuation or recurrence of dumping

- .
  - Weighted-average dumping margin
  - Volume of imports

2. Magnitude of the margin likely to prevail

- Margins from the investigation
- Use of a more recent margin

### History of the Orders

The Department of Commerce (the Department) published its final affirmative determinations of sales at less than fair value (LTFV) in the Federal Register with respect to imports of ball

bearings and parts thereof from Japan and Singapore, which contained the following rates:<sup>1</sup>

<u>Japan</u>	<u>Margin (%)</u>
Koyo Seiko Co., Ltd.	73.55
Minebea Co., Ltd.	106.61
Nachi-Fujikoshi Corp.	48.69
NSK Ltd.	42.99
NTN Corp.	21.36
All Others	45.83
 <u>Singapore</u>	
NMB/Pelmec	25.08
All Others	25.08

After notification of the affirmative determination of material injury by the International Trade Commission (ITC), the Department later published in the Federal Register antidumping duty orders on ball bearings from Japan and Singapore.<sup>2</sup> Since the issuance of the antidumping duty orders, the Department has conducted annual administrative reviews with respect to ball bearings from Japan and Singapore. There have been no changed-circumstance reviews of these orders. Duty-absorption inquiries may not be conducted on pre-URAA orders.<sup>3</sup> The Department has conducted several scope rulings with regard to ball bearings.<sup>4</sup> The above-listed orders remain in effect for all manufacturers, producers, and exporters of the subject merchandise from Japan and Singapore.<sup>5</sup>

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<sup>1</sup> See Final Determinations of Sales at Less Than Fair Value: Ball Bearings (Other than Tapered Roller Bearings) and Parts Thereof from Japan, 54 FR19101 (May 3, 1989); see also Final Determination of Sales at Less Than Fair Value: Ball Bearings and Parts Thereof from Singapore, 54 FR 19112 (May 3, 1989).

<sup>2</sup> See Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings, and Parts Thereof From Japan, 54 FR 20904 (May 15, 1989); see also Antidumping Duty Order of Sales at Less Than Fair Value: Ball Bearings and Parts Thereof From Singapore, 54 FR 20907 (May 15, 1989).

<sup>3</sup> See FAG Italia S.p.A. v. United States, 291 F.3d 806 (Fed. Cir. 2002); URAA refers to the Uruguay Round Agreements Act of 1994, which implemented the Uruguay Round General Agreement on Tariffs and Trade (GATT).

<sup>4</sup> For a listing of scope determinations which pertain to the orders, see the Scope Determination Memorandum (Scope Memorandum) from the Ball Bearings Team to Laurie Parkhill, dated April 15, 2005. The Scope Memorandum is on file in the Central Records Unit (CRU), main Commerce building, Room B-099, in the General Issues record (A-100-001) for the 03/04 reviews.

<sup>5</sup> The Department revoked the antidumping duty order on ball bearings from Japan with respect to Honda Motor Co. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders, 60 FR 10900 (February 28, 1995).

The Department conducted the first sunset reviews on ball bearings from Japan and Singapore pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the same rates as found in the original investigations.<sup>6</sup> Also, the ITC determined, pursuant to section 751(c) of the Act, that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>7</sup> Thus, the Department published the notice of continuation of these antidumping duty orders.<sup>8</sup>

On June 1, 2005, the Department published the notice of initiation of the second sunset reviews of the antidumping duty orders on ball bearings from Japan and Singapore.<sup>9</sup> The Department received the Notice of Intent to Participate from the Timken Company,<sup>10</sup> Pacamor Kubar Bearings, RBC Bearings (collectively, “the domestic interested parties”), NSK Corporation, and American NTN Bearing Manufacture Corporation (NTN USA) within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations (Sunset Regulations). We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). NSK Corp. and NTN USA filed complete substantive responses within the statutory deadlines.

We received complete substantive responses from the following foreign producers of the subject merchandise within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i):

Japan:

Koyo Seiko Co. Ltd. and Koyo Corporation USA (collectively “Koyo”)  
NTN Corporation and NTN USA (collectively “NTN”)  
NSK Ltd. and NSK Corp. (collectively “NSK”)

Singapore:

NMB/Pelmec

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<sup>6</sup> See Final Results of Expedited Sunset Reviews: Ball Bearings From Japan, 64 FR 60275 (November 4, 1999); Final Results of Expedited Sunset Reviews: Ball Bearings From Singapore, 64 FR 60287 (November 4, 1999).

<sup>7</sup> See Certain Bearings From China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, 65 FR 39925 (June 28, 2000), and USITC Publication 3309, Investigations Nos. AA1921-143, 731-TA-341, 731-TA-343-345, 731-TA-391-397, and 731-TA-399 (Review) (June 2000).

<sup>8</sup> See Continuation of Antidumping Duty Orders: Certain Bearings From France, Germany, Italy, Japan, Singapore, the United Kingdom, and the People’s Republic of China, 65 FR 42665 (July 11, 2000).

<sup>9</sup> See Initiation of Five-Year (“Sunset”) Reviews, 70 FR 31423 (June 1, 2005).

<sup>10</sup> The Timken Company acquired the assets of the Torrington Company as well as the assets of MPB Corporation. Torrington was the petitioner in the original investigations.

We received rebuttal comments from NSK, NTN, and Koyo (collectively, “the respondents”) within the proper deadlines as specified in 19 CFR 351.218(d)(4).

On September 12, 2005, the Department sent a letter to the respondents asking them to resubmit their substantive responses in order to revise the treatment of certain business-proprietary and public information. We also asked the domestic interested parties to re-submit their rebuttal comments to the respondents’ revised responses. The respondents filed their revised substantive responses on September 15, 2005, and the domestic interested parties filed their revised substantive rebuttals on September 27, and October 12, 2005.

Based on the responses received from interested parties, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(2)(i), the Department has conducted full (240-day) sunset reviews of these orders.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the periods before and after the issuance of the antidumping orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide the ITC with the magnitude of the margin of dumping likely to prevail if the orders are revoked.

Below we address the comments and rebuttals of the interested parties.

### Interested-Party Comments

#### 1. Likelihood of Continuation or Recurrence of Dumping

The domestic interested parties believe that revocation of these antidumping duty orders would be likely to lead to a continuation or recurrence of dumping by the Japanese and Singaporean manufacturers, producers, and exporters of the subject merchandise due to continued dumping.

Japan: Domestic interested parties state that, since the inception of the order on ball bearings from Japan, dumping margins have continued at above *de minimis* levels.<sup>11</sup> The domestic interested parties also state that the value of imports subject to this order declined after the imposition of the order, indicating that the Japanese manufacturers, producers, and exporters

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<sup>11</sup> See Substantive Response of Timken Company: Ball Bearings from Japan, dated July 1, 2005, at 8 (Timken Japan Response).

must dump the subject merchandise in order to continue to sell at pre-order volumes.<sup>12</sup> Thus, the domestic interested parties argue that, according to applicable U.S. law,<sup>13</sup> the Department should conclude that the substantial dumping margins and significant decline of imports demonstrate that revocation of the order will certainly lead to a continuation of dumping.<sup>14</sup>

The respondents submitted substantive comments arguing for revocation of the order on ball bearings from Japan. The respondents argue that revocation of the antidumping duty order on ball bearings is not likely to lead to continuation or recurrence of dumping. The respondents contend that the Department's fair-value analysis includes results for those U.S. sales in which the export price and constructed export price (collectively U.S. price) was below normal value but does not include the results for those U.S. sales in which the U.S. price was above normal value. The respondents contend that this practice violates U.S. antidumping law and international obligations under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Antidumping Agreement). Specifically, the respondents refer to the fact that the World Trade Organization's (WTO) Appellate Body has found repeatedly that this practice is in violation of the United States' WTO treaty obligations<sup>15</sup> and therefore is in violation of U.S. law.<sup>16</sup>

Therefore, the respondents argue, the margins the Department calculated during the original investigation are invalid because they were calculated using the disputed methodology. As such, the respondents state, the Department should recalculate those margins for the sunset review. According to NSK, the margin would have been *de minimis* for NSK, and therefore the order would have been revoked long ago, thereby demonstrating that no further harm could be done by revocation of the order in this sunset review.<sup>17</sup> NTN argues that, without the Department's use of

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<sup>12</sup> Timken Japan Response at 10.

<sup>13</sup> The domestic interested parties cite to Statement of Administrative Action, Uruguay Round Agreements Act (SAA), Pub. L. No. 103-465, 103rd Cong. 2d Sess., H. Doc. 103-316, vol. I, at 889-890 (1994), and Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders, 63 F 18871, 18872 (Dept. Comm. April 16, 1998) (Sunset Policy Bulletin).

<sup>14</sup> Timken Japan Response at 19.

<sup>15</sup> To support their claim, the respondents cite United States - Final Dumping Determination on Softwood Lumber from Canada, WT/DS264/AB/R (August 11, 2004), European Communities - Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India, WT/DS141/AB/R (March 1, 2001), and United States - Sunset Review of Anti-dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan, WT/DS244/AB/R (December 15, 2003).

<sup>16</sup> See Ball Bearings from Japan: NSK Ltd's Substantive Response to Notice of Initiation of Five-Year ("Sunset") Review, September 15, 2005, at 4-6 (NSK Response); see also NTN's Substantive Response to Notice of Initiation (NTN Response), September 15, 2005, at 4-7; see also Koyo's Revised Substantive Response to the Department of Commerce's Notice of Initiation (Koyo Response), September 15, 2005, at 3-5.

<sup>17</sup> NSK Response at 8.

the disputed methodology, NTN's calculated margins for the original investigation and subsequent reviews would have been zero or *de minimis* and that the order as it pertained to NTN would have long ago been revoked.<sup>18</sup> Therefore, NTN believes that revocation of the order on ball bearings from Japan would not have negative effects on the U.S. ball bearings industry. Koyo argues that the Department must disregard the margins calculated in the investigation and subsequent administrative reviews because the methodology to calculate those margins violated the United States' international obligations. Therefore, Koyo submits that there will be no deleterious effects as a result of revocation of the order on ball bearings from Japan because, when the flawed methodology is corrected, Koyo's margin would be zero for the past several reviews.<sup>19</sup> Therefore, Koyo contends, no recurrence or continuation of dumping will occur if the order on ball bearings from Japan is revoked.

The domestic interested parties submitted rebuttal comments addressing the arguments made by the respondents. The domestic interested parties argue that the WTO rulings regarding the Department's calculation methodology are inapplicable to this sunset review. The domestic interested parties cite decisions by the Court of Appeals to the Federal Circuit (CAFC) to support their claim that the WTO decisions are not binding on the Department and that U.S. law upholding the calculation methodology should prevail.<sup>20</sup> Therefore, because the Department's calculations are valid under U.S. law and have yielded dumping margins over the past several administrative reviews and the investigation, the domestic interested parties conclude that the result is that there remains a strong likelihood of a continuation of dumping should the order on ball bearings from Japan be revoked.

In their rebuttal comments to the domestic interested parties' July 1 submission, the respondents state that the domestic interested parties' reliance on the Sunset Policy Bulletin as a basis for finding a likelihood of a continuation of dumping is in error. The respondents cite to a recent WTO decision that termed the Sunset Policy Bulletin "...inconsistent with the obligation set forth in the (Antidumping Agreement) to determine likelihood of continuation or recurrence of dumping."<sup>21</sup> Therefore, respondents argue, the Department cannot rely on the Sunset Policy Bulletin and must make its determination based on the Congressional statute on sunset reviews.<sup>22</sup>

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<sup>18</sup> NTN Response at 4.

<sup>19</sup> Koyo Response at 3-5.

<sup>20</sup> The domestic interested parties cite to Corus Staal BV v. Department of Commerce, 395 F.3d 1343 (Fed. Cir. 2005) (WTO decisions "are not binding on the United States much less this Court."), and Timken Co. V. United States, 354 F.3d 1334, 1345 (Fed. Cir. 2004) ("In light of the fact that Commerce's 'longstanding and consistent administrative interpretation is entitled to considerable weight'...we refuse to overturn the (disputed methodology) based on EC-Bed Linen.").

<sup>21</sup> See United States - Anti-Dumping Measures on Oil Country Tubular Goods From Mexico, WT/DS282/R, (June 20, 2005) at 63; see also Id. at 31-32.

<sup>22</sup> NSK Ltd: Rebuttal to Substantive Response to Notice of Initiation, (July 6, 2005) at 1-2.

Singapore: Domestic interested parties state that, since the inception of the order on ball bearings from Singapore, dumping margins have continued at above *de minimis* levels for NMB/Pelmec, the only Singaporean producer of ball bearings to be reviewed. Additionally, domestic interested parties point out that the Department has found dumping by NMB/Pelmec of ball bearings over all administrative reviews completed since the inception of the order.<sup>23</sup> Also, the domestic interested parties assert that Singaporean imports of ball bearings have generally declined by volume and value since the imposition of the order, stating also that volume and value of imports of ball bearings from Singapore in 2004 were well below pre-order levels.<sup>24</sup> Because of these facts, domestic interested parties conclude that dumping by Singaporean producers would continue at current or greater levels should the order be revoked.<sup>25</sup>

NMB/Pelmec argues that revocation of the antidumping duty order on ball bearings from Singapore is not likely to lead to continuation or recurrence of dumping. NMB/Pelmec contends that the Department's fair-value analysis includes results for those U.S. sales in which the U.S. price was below normal value but does not include the results for those U.S. sales in which the U.S. price was above normal value. NMB/Pelmec argues that this practice violates U.S. antidumping law and international obligations. Further, NMB/Pelmec states that, in order for the United States to avoid rendering another sunset determination inconsistent with the United States' international obligations, the Department must disregard the margins calculated in the original investigation and subsequent administrative reviews. Instead, NMB/Pelmec contends, the Department must recalculate the margins using a different methodology, one that incorporates results for U.S. sales where U.S. price was above normal value. NMB/Pelmec argues that such a methodology would reveal zero margins for NMB/Pelmec over the past several administrative reviews. Therefore, NMB/Pelmec contends, no recurrence or continuation of dumping will occur if the order on ball bearings from Singapore is revoked.

The domestic interested parties submitted rebuttal comments addressing the arguments made by NMB/Pelmec. The domestic interested parties argue that the WTO rulings regarding the Department's calculation methodology are inapplicable to this sunset review. The domestic interested parties cite decisions by the CAFC to support their claim that the WTO decisions are not binding on the Department and that U.S. law upholding the calculation methodology should prevail.<sup>26</sup> Therefore, because the Department's calculations are valid under U.S. law and have yielded dumping margins for NMB/Pelmec at the original investigation and over the past several

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<sup>23</sup> Substantive Response of Timken Company: Ball Bearings from Singapore, dated July 1, 2005, at 8 (Timken Singapore Response).

<sup>24</sup> Timken Singapore Response at 9.

<sup>25</sup> Ibid at 17.

<sup>26</sup> Ibid footnote 19.

administrative reviews, the domestic interested parties conclude that there remains a strong likelihood of a continuation of dumping should the order on ball bearings from Singapore be revoked.

NMB/Pelmec submitted rebuttal comments to the domestic interested parties' July 1 submission. NMB/Pelmec states that the domestic interested parties' reliance on the Sunset Policy Bulletin as a basis for finding a likelihood of a continuation of dumping is in error. NMB/Pelmec cites a recent WTO decision that found the Sunset Policy Bulletin inconsistent with the United States' international obligations under the Antidumping Agreement.<sup>27</sup> Therefore, NMB/Pelmec argues, the Department cannot rely on the Sunset Policy Bulletin and must make its determination based on a case-specific analysis.<sup>28</sup>

Lastly, NSK Corporation argues there is an overall lack of support among the domestic industry for the continuation of the orders on ball bearings from Japan and Singapore. NSK Corporation observes that, during the first sunset reviews of ball bearings, 57.5 percent of domestic producers by value of U.S. shipments supported revocation of the antidumping duty orders on ball bearings from the various countries while only 31 percent supported continuation of the orders. Therefore, because more than 50 percent of the domestic industry expressed opposition recently to the continuation of these orders, NSK Corporation argues that the Department should revoke the orders on ball bearings from the subject countries.<sup>29</sup>

#### Department's Position

Drawing upon the guidance provided in the legislative history accompanying the URAA, specifically the SAA,<sup>30</sup> the Department's determinations of likelihood will be made on an order-wide basis. Pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before the issuance of the antidumping duty order as well as import volumes over the past five years. In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.<sup>31</sup>

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<sup>27</sup> Ibid footnote 20.

<sup>28</sup> See Rebuttal Comments of NMB/Pelmec, dated July 6, 2005, at 1-2.

<sup>29</sup> NSK Response at 7.

<sup>30</sup> SAA, H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report).

<sup>31</sup> See Sunset Policy Bulletin at Section II.A.3.



We disagree with the respondents' and NMB/Pelmec's claims that the margins we calculated during the original investigations are invalid, and we disagree with their claim that our use of the Sunset Policy Bulletin is improper in light of recent WTO panel decisions. Therefore, we disagree further with their assertion that revocation of the orders would not lead to continued dumping. The respondents' argument is based on its contention that the WTO Appellate Body has held that our methodology of not offsetting dumped sales with non-dumped sales is inconsistent with U.S. international obligations under the Antidumping Agreement. As we stated in the Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada, 69 FR 68309 (November 24, 2004) (Wire Rod), Congress made clear that reports issued by WTO panels or the Appellate Body "will not have any power to change U.S. law or order such a change" (SAA at 659).

The SAA emphasizes that "panel reports do not provide legal authority for federal agencies to change their regulations or procedures."<sup>32</sup> To the contrary, Congress has adopted an explicit statutory scheme for addressing the implementation of WTO dispute-settlement reports. See section 129 of the URAA. As is clear from the discretionary nature of that scheme, Congress did not intend for WTO dispute-settlement reports to automatically trump the exercise of the Department's discretion in applying the statute.<sup>33</sup>

Therefore, the Department's margin-calculation methodology is valid so long as its use is consistent with U.S. law. The CAFC has ruled that the Department's margin-calculation methodology is a reasonable interpretation of the statute. See *Timken Co. vs. United States*, 354 F.3d 1334 (Fed. Cir. 2004) at 1342; see also *Corus Staal II* at 1343. Specifically, in *Timken*, the CAFC ruled explicitly that the Department's practice of not offsetting dumped sales with non-dumped sales, *i.e.*, not allowing U.S. sales not priced below normal value to offset margins found on other U.S. sales, is a reasonable interpretation of section 751(a)(2)(A) of the Act. Further, we have continued our practice of not offsetting dumped sales with non-dumped sales in prior cases.<sup>34</sup>

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<sup>32</sup> See SAA at 1032; see also *Corus Staal BV v. Department of Commerce*, 395 F.3d 1343 (Fed. Cir. 2005) (*Corus Staal II*) at 1348 ("WTO decisions are not binding on the United States") (citations and quotation marks omitted).

<sup>33</sup> See section 129(b)(4) of the URAA (implementation of WTO reports is discretionary); see also SAA at 1023 ("{a}fter considering the views of the Committees and the agencies, the Trade Representative may require the agencies to make a new determination that is 'not inconsistent' with the panel or Appellate Body recommendations..."). See also Wire Rod and accompanying Issues and Decision Memorandum at Comment 8.

<sup>34</sup> See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, 70 FR 54711 (September 16, 2005), and the accompanying Issues and Decision Memorandum at Comment 1; Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands, 66 FR 50408 (October 3, 2001), and the accompanying Issues and Decision Memorandum at Comment 1; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2000-2001 Administrative Review,

In addition, the respondents misapprehend the purpose of the Sunset Policy Bulletin. As stated in the Bulletin itself, the Sunset Policy Bulletin merely provides guidance to the general public on the Department's views on issues not addressed explicitly by the Act and the Department's regulations. Further, the WTO Panel decision to which the respondents refer has been reversed by the Appellate Body.<sup>35</sup>

Therefore, the methodology we used to calculate the margins in the original investigations and subsequent administrative reviews is and remains valid under U.S. law. Thus, we conclude that the rates we calculated in the investigations and in administrative reviews demonstrate that, without the discipline of the orders, imports of the subject merchandise would continue to be dumped and that dumping continued at above *de minimis* rates after the issuance of the applicable antidumping duty orders.

Finally, we disagree with the contention by NSK Corporation that the orders should be revoked because there is an overall lack of support among the domestic industry for the continuation. Our Sunset Regulations do not state a threshold that the domestic industry must meet in order to participate in sunset reviews. Rather, the Sunset Regulations state clearly that the criteria for a domestic party wishing to participate in these reviews is that it file a valid notice of intent to participate within 15 days of the publication of the notice of initiation<sup>36</sup> and that the notice of intent to participate contain certain required information.<sup>37</sup> In these reviews, the Timken Company, Pacamor Kubar Bearings and RBC Bearings filed timely and adequate notices of intent to participate with the Department. Therefore, there is no basis for revocation of the sunset reviews under our regulations for lack of domestic support.

Below we list our findings for each order subject to review:

Japan: Using Bureau of Census import statistics and Japanese export statistics provided by the domestic interested parties, the Department finds that the total weight and value of complete Japanese ball bearings imported decreased substantially post-order and remain well below pre-order levels. See attached import statistics. Given that dumping continues at above *de minimis* levels and imports are below pre-order levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

Singapore: Using Bureau of Census import statistics provided by the domestic interested parties,

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Partial Rescission of Review, and Determination to Revoke Order, in Part, 67 FR 68990 (November 14, 2002), and the accompanying Issues and Decision Memorandum at Comment 9.

<sup>35</sup> See United States - Anti-Dumping Measures on Oil Country Tubular Goods from Mexico, WT/DS282/ABR adopted on Nov. 28, 2005.

<sup>36</sup> See 19 CFR 351.218(c)(4)(d)(i).

<sup>37</sup> See 19 CFR 351.218(c)(4)(d)(ii).

the Department finds that the volume and value of complete Singaporean ball bearings imported decreased substantially post-order and remain well below pre-order levels. See attached import statistics. Given that dumping continues at above *de minimis* levels and imports are below pre-order levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

## 2. Magnitude of the Margin Likely to Prevail

### Japan:

In its substantive response, the domestic interested parties request that the Department report to the ITC the margins that were determined in the final determination in the original investigation in accordance with the SAA. See Timken Japan Response at pages 19-20.

NSK argues that, once the practice of not offsetting dumped margins with non-dumped margins is removed from the Department's calculation, the Department's calculations would result in negative or zero margins for NSK. Alternatively, NSK argues that, even if the Department retains the disputed methodology, the Department should use an average-to-average methodology normally used in investigations. According to NSK's calculations, the average-to-average methodology results in *de minimis* rates for most if not all foreign producers and exporters of subject merchandise. Therefore, NSK argues, if the Department rejects NSK's argument with respect to offsetting margins, the Department should conclude that the dumping margins likely to prevail if the order on ball bearings were revoked would be *de minimis* based on the average-to-average methodology used in investigations. See NSK response at 7-8.

NTN argues that the original investigation rates should be re-calculated using a new methodology or, in the alternative, if the Department chooses not to correct the disputed methodology, NTN argues that the rates from recent antidumping reviews are more appropriate than the investigation rate.<sup>38</sup>

Because Koyo argues that the Department's calculation methodology for the original investigation and subsequent administrative reviews was improper, as detailed above, Koyo asks the Department to disregard the margins calculated in the original investigation and subsequent administrative reviews. Koyo states that, in the course of a full sunset review, the Department must determine the margins calculated in the absence of the disputed methodology.

### Singapore:

In its substantive response, the domestic interested parties request that the Department report to the ITC the margin that was determined in the final determination in the original investigation in accordance with the SAA. See Timken Singapore Response at 13.

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<sup>38</sup> NTN Response at 5-6.

NMB/Pelmec argues that, because the Department's calculation methodology for the original investigation and subsequent administrative reviews was improper, as detailed above, NMB/Pelmec asks the Department to disregard the margins calculated in the original investigation and subsequent administrative reviews. NMB/Pelmec states that, in the course of a full sunset review, the Department must determine the margins calculated in the absence of the disputed methodology.

#### Department's Position

We disagree with NSK's assertion that we should use the average-to-average methodology to recalculate the dumping margins. Section 751(a)(2)(A)(ii) of the Act requires the Department to calculate a dumping margin for each entry of the subject merchandise. Sunset reviews, investigations, and administrative reviews are separate segments in which the Department's practice and procedures for calculating a dumping margin may differ depending on the segment. For example, in investigations, the Department may determine the dumping margin by comparing the weighted-average normal values to the weighted-average U.S. prices. In administrative reviews, the Department determines the dumping margin by comparing the weighted-average normal values to the U.S. prices of individual transactions. We have calculated the dumping margins with respect to these administrative reviews in compliance with our practice and in compliance with the statute. Therefore, we decline to change our methodology to re-calculate the margins we report to the ITC for these sunset reviews. For the same reason, we disagree with Koyo and NTN that the margins from the original investigation were calculated using an improper methodology.

Normally the Department will provide to the ITC the company-specific margin from the investigation for each company. For companies not investigated specifically or for companies that did not begin shipping until after the orders were issued, the Department normally will provide a margin based on the "all others" rate from the investigation. The Department's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.

The Department has conducted several administrative reviews for each order subject to these sunset reviews. In the final results of those reviews, the Department continued to find margins above *de minimis* levels. In the first sunset reviews, the Department determined that the margin calculations in the investigations were probative of behavior without the discipline of the orders. Furthermore, for the second sunset reviews, the Department finds that it is appropriate to provide the ITC with the rates from the investigations because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of the orders in place. Therefore, the Department will report to the ITC these same margins as listed below in the section on Preliminary Results of Reviews.

### Preliminary Results of Reviews

We preliminarily determine that revocation of the antidumping duty orders on ball bearings and parts thereof from Japan and Singapore would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
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#### Japan

Koyo Seiko Co., Ltd.	73.55
Minebea Co., Ltd.	106.61
Nachi-Fujikoshi Corp.	48.69
NSK Ltd.	42.99
NTN Corp.	21.36
All Other Japanese Manufacturers/Exporters/Producers	45.83

#### Singapore

NMB/Pelmec	25.08
All Other Singaporean Manufacturers/Exporters/Producers	25.08

### Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the Preliminary Results of Review in the Federal Register.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_

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Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

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(Date)